



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2022-0457; FRL-11008-02-R4]

Air Plan Approval; Georgia;

Miscellaneous Rule Revisions to Gasoline Dispensing Facility – Stage I

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving changes to the Georgia State Implementation Plan (SIP), submitted by the State of Georgia through the Georgia Environmental Protection Division (GA EPD) via a letter dated November 4, 2021. The SIP revision revises Georgia's Stage I vapor recovery rules primarily by removing outdated references and making several clarifying edits. The revision also updates several definitions and makes two substantive changes. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2022-0457. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division,

U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

CAA section 182(b)(2) requires states to revise their SIPs to include provisions implementing Reasonably Available Control Technology (RACT) for each category of volatile organic compound (VOC) sources covered by a Control Techniques Guidelines (CTG)¹ document in ozone nonattainment areas that are classified as moderate or above. CAA Section 182(b)(2)(B) specifically requires states to include VOC RACT measures in their SIPs if the area is covered by a CTG issued prior to November 15, 1990. In 1975, EPA established a CTG addressing the control of VOC emissions from gasoline dispensing facilities (GDFs).² For certain GDFs, owners or operators are required to install systems for the recovery of gasoline vapor emissions. These requirements are also known as Stage I and Stage II vapor recovery.³

¹ CTG documents are documents issued by EPA to provide States with EPA's presumptive VOC RACT recommendations on how to control VOC emissions from specific products or source categories in ozone nonattainment areas.

² See *"Design Criteria for Stage I Vapor Control Systems Gasoline Service Stations"* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards Emission Standards and Engineering Division Research Triangle Park, EPA-450 (November 1975). Available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=20013S56.txt>.

Stage I vapor recovery requires the control of hydrocarbon gasoline vapors, such as VOCs, when dispensing gasoline from tanker trucks into gasoline storage tanks. Specifically, Stage I vapor recovery systems capture vapors displaced from storage tanks at GDFs during gasoline cargo truck deliveries. When gasoline is delivered into an above ground or underground storage tank, vapors that were taking up space in the storage tank are displaced by the gasoline entering the storage tank. The Stage I vapor recovery systems route these displaced vapors into the tank of the delivery truck. Some vapors are vented when the storage tank exceeds a specified pressure threshold, however, the Stage I vapor recovery systems greatly reduce the possibility of these displaced vapors being released into the atmosphere.

Georgia's Gasoline Dispensing Facilities Rule, found at 391-3-1-.02(2)(rr), applies to GDFs located in Barrow, Bartow, Carroll, Catoosa, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Richmond, Rockdale, Spalding, Walker, and Walton Counties. Georgia's November 4, 2021, submittal includes changes to Rule 391-3-1-.02(2)(rr), "Gasoline Dispensing Facility - Stage I."³ The revision primarily contains non-substantive changes such as language edits, removing outdated references, and clarifying edits. The revision also updates several definitions and makes two substantive changes.

Specifically, the State makes several changes to clarify the physical nature of gasoline vapor recovery control systems and clarifies a provision that outlines one method to control vapors displaced from gasoline stationary storage tanks during filling. In addition to changes addressing the physical nature of the control technology, the State has made other edits to clarify various certification and recertification testing requirements, and also the rule's recordkeeping requirements. Further, Georgia has made changes to specify the required vapor efficiency to qualify as a "Stage 1 Gasoline Vapor Recovery System" or an "Enhanced Stage I Gasoline

³ In the November 4, 2021, cover letter, GA EPD requested that EPA not incorporate the changes to paragraphs 391-3-1-.01(nnnn), 391-3-1-.02(2)(rr)16.(x), 391-3-1-.02(8), and 391-3-1-.02(9) into the SIP. For this reason, EPA is not approving the changes to these paragraphs in this action.

Vapor Recovery System”, including updated definitions and a clarification that functional testing is not conducted by Georgia EPD.

EPA is approving this SIP revision because the rule changes are not expected to result in any change to air pollutant emissions and therefore would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable CAA requirement. In addition, these changes are consistent with all applicable federal requirements for Stage I gasoline dispensing facilities.

In a notice of proposed rulemaking (NPRM), published on June 13, 2023 (88 FR 38430), EPA proposed to approve the November 4, 2021, changes to Georgia Rule 391-3-1-.02(2)(rr). The details of Georgia’s submission, as well as EPA’s rationale for approving the changes, are described in more detail in the June 13, 2023, NPRM. Comments on the June 13, 2023, NPRM were due on or before July 13, 2023. No comments were received on the June 13, 2023, NPRM, adverse or otherwise.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of Georgia Rule 391-3-1-.02(2)(rr), “Gasoline Dispensing Facility – Stage I,” state effective on October 25, 2021, with the exception of the changes to subparagraph 391-3-1-.02(2)(rr)16.(x).⁴ EPA has made, and will continue to make, these materials generally available at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under

⁴ The version of subparagraph 391-3-1-.02(2)(rr)16.(x) remaining in the SIP has a state-effective date of June 8, 2008, and was approved by EPA on September 28, 2012. *See* 77 FR 59554.

sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁵

III. Final Action

In accordance with section 110 of the CAA, EPA is finalizing the approval of the aforementioned changes to the Georgia SIP. Specifically, EPA is approving changes to Rule 391-3-1-.02(2)(rr), "Gasoline Dispensing Facility – Stage I," with the exception of changes to subparagraph 391-3-1-.02(2)(rr)16.(x). EPA is finalizing the approval of these changes because they are consistent with the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandates or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

⁵ *See* 62 FR 27968 (May 22, 1997).

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

GA EPD did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental Protection, Air Pollution Control, Incorporation by Reference, Intergovernmental Relations, Nitrogen Oxides, Ozone, Reporting and Recordkeeping Requirements, Volatile Organic Compounds.

Jeananne Gettle,
Acting Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L – Georgia

2. In § 52.570, in paragraph (c), amend table 1 by revising the entry for “391-3-1-.02(2)(rr)” to read as follows:

§ 52.570 Identification of plan.

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(c) * * *

Table 1 to Paragraph (c) - EPA-Approved Georgia Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
391-3-1-.02(2)(rr)	Gasoline Dispensing Facility - Stage I	10/25/2021	[Insert date of publication in <i>Federal Register</i>], [Insert citation of publication]	Except for subparagraph 391-3-1-.02(2)(rr)16.(x), which was approved on 9/28/2012 with a state-effective date of 6/8/2008.
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[FR Doc. 2023-16274 Filed: 8/1/2023 8:45 am; Publication Date: 8/2/2023]